

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JONATHAN MALONE,

PLAINTIFF,

V.

**BIG LOTS STORES, INC. and
DESMOND PIIHL,**

DEFENDANT.

C.A. No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, Big Lots Stores, Inc. (“Big Lots”), files this Notice of Removal of Cause No. 103662, from the 40th Judicial District Court of Ellis County, Texas in which this case is now pending, to the United States District Court for the Northern District of Texas, Dallas Division, and in support thereof would show:

STATEMENT OF GROUNDS FOR REMOVAL

1. Plaintiff's claims arise out of his prior employment with Big Lots. Plaintiff's Petition asserts claims of discrimination, retaliation, and failure to accommodate under the Texas Human Rights Commission Act and the Americans with Disabilities Act as well as violation of the Family and Medical Leave Act. Plaintiff's Petition states he seeks monetary relief over \$200,000 but not more than \$1,000,000.

2. Plaintiff's Petition and Plaintiff's Amended Petition constitute all process, pleadings, and orders served and on file in this action. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.1 of the U.S. District Court for the Southern District of Texas, a copy of Plaintiff's Petition, along with an index of matters being filed, are attached as ***Exhibit A***. There were no orders entered by the state court judge.

3. This Notice of Removal is filed within the time allowed for removal of civil actions pursuant to 28 U.S.C. § 1446(b)(1).

4. Venue is appropriate because this Court is in the district and division embracing the place where the state court action is pending. 28 U.S.C. § 1441(a).

GROUND FOR REMOVAL – FEDERAL QUESTION

5. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 because Plaintiff has alleged causes of action arising under the Constitution, laws, or treaties of the United States and Plaintiff's claims have not been made non-removable by statute. This Court has jurisdiction pursuant to 28 U.S.C. § 1331. This action is, therefore, removable pursuant to 28 U.S.C. § 1441(c).

JURY DEMAND

6. Plaintiff has made a demand for jury trial in the State Action.

OTHER PROCEDURAL REQUIREMENTS

7. A copy of this Notice of Removal is being contemporaneously filed with the Clerk of the 40th Judicial District Court of Ellis County, Texas via e-file on July 30, 2020. Removal of this case is effective as of that date, pursuant to 28 U.S.C. § 1446. Written notice of this removal has also been contemporaneously served upon counsel for the Plaintiff as required by 28 U.S.C. § 1446(d). Co-Defendant, Desmond Piihl, has not yet been served nor has he filed an answer in this matter. Mr. Piihl's consent to remove this case is, therefore, not required.

8. Pursuant to Fed. R. Civ. P. 5(d), Big Lots will file with this Court a Certificate of Service of the Notice of Removal provided to the only other party, Plaintiff.

CONCLUSION

Based on the foregoing, Defendant, Big Lots Stores, Inc., gives notice that further proceedings in the state court are discontinued and that this suit is removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

VORYS, SATER, SEYMOUR & PEASE, LLP

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**ATTORNEYS FOR DEFENDANT BIG LOTS
STORES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was electronically filed and has been served on the following in accordance with the Federal Rules of Civil Procedure on July 30, 2020.

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